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PATENT & TRADEMARK OFFICE

Docket: P/35-20 CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: KRYSIAK, ET AL.

Serial No.: 10/686,241 Group Art Unit: 3643

Filed: October 15, 2003 Examiner: J. Gellner

For: SOIL STABILIZER CARRIER Dated: March 5, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

DECLARATION OF MICHAEL KRYSIAK

I, Michael Krysiak, residing at 3554 Highland Center Drive, Green Bay, Wisconsin, 54311 declares as follows;

1. I graduated from the University of Wisconsin-Milwaukee majoring in Industrial Engineering.

2. I have given various presentations relating to seed encapsulation, green building, quality and service throughout the United States.

3. I worked for FEECO International, Inc. as Manager of Quality and Service for six years. FEECO designs, builds and installs material processing equipment for companies in the environmental and fertilizer markets. During my last two years at FEECO I worked on the development of the EncapSeed products in our Pilot Lab. Prior to FEECO, I worked at Krueger International (KI) as an Industrial/Quality Engineer.

4. I presently am the President and CEO of Encap.

5. I have reviewed the application of the present invention.

6. I have reviewed the Hamilton patent, 5,456,733 and the Green reference.

7. The Green reference discusses the use of a water soluble PAM for use in furrow irrigation, rain-fed or sprinkler irrigation and construction.

8. Hamilton teaches pelletization of a fibrous material so as to have a granular mulch. The product and process of the Hamilton invention is intended to create a pellet mulch that swells, expands, and disintegrate for the purpose to increase the pellet's area of ground cover. With this ground covering comes the benefits of the pellet mulch's ability to absorb water, prevents water run-off, and helps maintain moisture in the soil. This is accomplished through the use of water-insoluble, swellable, gel-forming, hydrophilic polymeric materials, capable of absorbing substantial amounts of water. As these water-insoluble materials swell, the pellet mulch materials expand to cover a larger surface area.

9. The PAM CARRIER of the present invention is designed to be a delivery system of a water soluble polymer to the soil. Once the PAM CARRIER is metered to the ground/soil, the polymer is "watered out" to the soil as water comes in contact with the carrier. The polymer being release from the PAM CARRIER then conditions the soil. This conditioning enables the soil to better aid in germination and/or erosion control.

10. Hamilton at col. 2 lines 44-49 states that the most essential feature of the invention is the incorporation of a water-insoluble polymeric material.

11. The Hamilton patent is distinctively different than the present invention. Hamilton teaches use of a water holding/swelling polymer, as opposed to the present invention's use of a water soluble polymer. The intended purposes of each polymer are as different as the polymer chemistry themselves. Hamilton's intent is water holding. The present invention relates to nutrient management.

12. After reviewing both Hamilton and Green, I do not believe that one skilled in the art would combine the references and in fact I believe that the references teach two different polyacrylamides, water soluble for Green and water insoluble for Hamilton. I further believe that the references teach against using other types of PAM for their specific uses.

13. I have previously had an Examiner's interview with you where I showed the physical property differences between water insoluble PAM and water soluble PAM. Attached are the exhibits which I have previously showed you.

14. Exhibit 1, put out by the USDA entitled The PAMphlet states that "Designated as "water soluble", "linear" or "non-crosslinked" PAMs (Not: gel-forming, super-water absorbent, crosslinked or non-linear. These are not soluble and/or not suited for erosion control). The article goes on to further state that "The focus of the NWISRL research for the past decade has been

mainly on water soluble PAM's for erosion control and infiltration management. We have gotten many questions about crosslinked PAM's, which are a different class of compounds. They are not water soluble but instead are "super water absorbant" or "gel-forming" compounds and are not used for erosion control." "The PAMs designated for this use are regarded as "water soluble" or "linear" or "non-crosslinked" PAMs. Do not purchase "crosslinked" or "super water-absorbant" PAMs for use in irrigation water. The latter do not act the same as linear PAMs in water or in the soil, and they have a different function and purpose."

15. Exhibit 2 illustrates a comparison between water soluble PAM and water insoluble PAM. By using the product with water insoluble PAM, the product swells to absorb water. By using water soluble PAM, the product releases the polyacrylamide while remaining the same size.

16. Exhibit 3 shows the granular fertilizer with water soluble PAM and without water soluble PAM. The one without water soluble PAM shows a segregation and a liquid. The one with water soluble PAM shows a binding and a slurry.

17. Exhibit 4 shows the granular fertilizer test protocol for limestone granules. The test results showed that the limestone with water soluble PAM showed physical material characteristics that assist in reducing runoff and reduce leeching thereby enhancing the value of the limestone. Further the

limestone if used as a method of metering water soluble PAM to the soil would stay where broadcast.

18. Exhibit 5 shows the difference between water soluble polyacrylamide and water holding (water insoluble) polyacrylamide.

19. Exhibit 6 shows the commercial application of the product of the present invention and its commercial advantages.

20. I hereby declare that all of the statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent application to which it relates or any patent issued thereon.

Dated: 3-5-08

Michael Krysiak
Michael Krysiak